

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: **Seidita**

Serial No.: **10/241,416**

Group Art Unit: **3727**

Filed: **February 4, 2004**

Examiner: **Ngo**

For: **TAMPER EVIDENT CLOSURE WITH LOCKING BAND**

Honorable Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION UNDER 37 CFR 1.181(a) TO WITHDRAW HOLDING OF ABANDONMENT

Sir:

Applicant respectfully requests that the holding of abandonment in the above-captioned patent application be withdrawn, for the reasons set forth below.

The Notice of Abandonment dated November 16, 2005 indicated that the cause of abandonment was Applicant's failure to timely file a proper response to the Office letter that was mailed on 07 April 2005, and further stated that "no response has been received." This is incorrect. In fact, an Amendment was filed on October 7, 2005 that included a request for a three-month extension of time. These documents together with a receipt postcard and firm check #15397 in the amount of \$1020 were deposited by the undersigned's assistant Rebekah L. Mitchell with the U.S. Postal Service as first-class mail pursuant to the provisions of 37 CFR 1.8 on October 7, 2005.

In support of Applicant's position, attached is a copy of the amendment that was retained in the undersigned's file, which clearly shows the Rule 8 Certificate of Mailing that was signed by Ms. Mitchell in two separate locations. Also attached is a copy of the return receipt postcard, which is stamped clearly indicating receipt in the USPTO OIPE on October 13, 2005.

The undersigned first learned of the holding of abandonment of this application in an e-mail communication from European Patent Attorney Christoph Müller on October 31, 2006. The undersigned upon reviewing the file found no Notice of Abandonment in the file, but was able to download a copy of the Notice of Abandonment dated November 16, 2005 from the USPTO PAIR Image File Wrapper. To the best of the undersigned's knowledge the Notice of Abandonment dated November 16, 2005 was never received in this Office prior to the undersigned's downloading of it within the past few weeks.

Prior to learning of the holding of abandonment, it was the assumption of the undersigned that the response filed on October 7, 2005 was being considered and that the application was still pending. From the time that the undersigned learned of the holding of abandonment until the filing of this petition, a diligent effort was made to research the relevant facts and law for the purposes of preparing this petition. There was no intentional delay.

For the reasons given above and in the interests of fairness, Applicant respectfully requests that the holding of abandonment be withdrawn and that the Amendment filed October 7, 2005 be considered.

If the Petitions Examiner feels that a telephone interview would expedite prosecution of this patent application, he or she is respectfully invited to telephone the undersigned at 215-599-0602.

Respectfully submitted,

/John L. Knoble/

John L. Knoble
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Date: November 14, 2006

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